

Regulations under the Fisheries Act, 1982

No. 155 of 1985

*At the Executive Council Office, at Adelaide,
15 August 1985*

PURSUANT to the Fisheries Act, 1982, and all other powers, I, the Governor's Deputy, with the advice and consent of the Executive Council, make the following regulations.

C. L. LAUCKE, Governor's Deputy

Regulations under the Fisheries Act, 1982

1. These regulations may be cited as the 'Scheme of Management (Tuna Fishery) Regulations, 1985'.

2. These regulations shall take effect from 1 October 1985.

3. (1) In these regulations unless the context otherwise requires:

'Act' means the Fisheries Act, 1982;

a body corporate shall be related to another body corporate if it would be deemed to be so related by and for the purposes of the Companies (South Australia) Code;

'any one day' means the period commencing at midnight and ending at the midnight next following;

'coastal waters' means the waters of the ocean and all bays, gulfs, straits, passages, inlets and estuaries of the State that are subject to the tidal influence of the sea; but does not include the waters of the Coorong between the barrages and the Murray Mouth;

'Commonwealth quota' means an endorsement on a fishing boat licence granted under the Fisheries Act 1952 of the Commonwealth such endorsement permitting the holder of the licence to take tuna in waters, not being waters of the State, but which are contiguous to coastal waters;

'fishery' means the class of fishing activities declared by regulation 6 of these regulations to constitute a fishery under Division 1 of Part IV of the Act;

'former licence holder' means a person who, on 30 September 1985, held a fishery licence granted under the Scheme of Management (Tuna Fishery) Regulations, 1984.

'proprietary company' has the meaning ascribed to it by the Companies (South Australia) Code;

'salmon' means salmon (*Arripis trutta espei*);

'share' in relation to a body corporate has the meaning ascribed to it by the Companies (South Australia) Code;

'tuna' means tuna of all species (Families Katsuwonidae and Thunnidae).

(2) For the purposes of these regulations:

(a) a person shall be regarded as the holder of a share in a body corporate if:

(i) he is beneficially entitled to that share whether it is held by him personally or otherwise; or

(ii) he has a relevant interest in that share;

(b) a 'relevant interest', in relation to a share in a body corporate, means a relevant interest within the meaning of the Companies (South Australia) Code for the purposes of Division 4 of Part IV or section 261 of the Code.

(3) Notwithstanding that in these regulations the definition of 'relevant interest' is the definition of 'relevant interest' for the purposes of Division 4 of Part IV or section 261 of the Companies (South Australia) Code that definition in these regulations shall apply to a voting share in any body corporate and not a company as defined in section 134 of the Companies (South Australia) Code.

(4) For the purposes of these regulations the policy of one person one licence means that no person shall, at the same time;

- (a) be the holder of more than one fishery licence;
- (b) be the holder of a fishery licence and have an interest in another fishery licence;
- (c) have an interest in more than one fishery licence.

4. (1) Where a body corporate is the holder of a fishery licence each of the persons specified in subregulations (2) and (3) of this regulation shall, for the purposes of these regulations, be deemed to have an interest in the fishery licence of which that body corporate is the holder.

(2) Any body corporate:

- (a) which is related to that body corporate;
- (b) which is a shareholder in that body corporate;
- (c) in which that body corporate is a shareholder.

(3) Any natural person who is a director, secretary or shareholder of that body corporate and any body corporate:

- (a) which is related to that body corporate;
- (b) which is a shareholder in that body corporate;
- (c) in which that body corporate is a shareholder.

5. (1) Where a natural person is the holder of a fishery licence each of the persons specified in subregulations (2) to (6) of this regulation shall, for the purposes of these regulations, be deemed to have an interest in the fishery licence of which that natural person is the holder.

(2) Any body corporate of which that natural person is a director, secretary or shareholder.

(3) Any body corporate which:

- (a) is related to; or
- (b) is a shareholder in,

a body corporate of the kind referred to in subregulation (2) of this regulation.

(4) Any body corporate in which a body corporate of the kind referred to in subregulation (2) of this regulation is a shareholder.

(5) Any natural person who is a director, secretary or shareholder in a body corporate of a kind referred to in subregulations (2) to (4) of this regulation.

(6) Any person with whom the holder of the licence in respect of the fishery has entered into or proposes to enter into an agreement, arrangement or understanding being an agreement, arrangement or understanding of a kind referred to in subregulation (7) of this regulation and any person or persons at whose direction or in accordance with whose wishes or instructions the holder of the licence will act or refrain from acting pursuant to such agreement, arrangement or understanding.

(7) An agreement, arrangement or understanding whether formal or informal, whether express or implied, being an agreement, arrangement or understanding the effect or purpose of which is that the holder of the licence in respect of the fishery will act at the direction of or in accordance with the wishes or instructions of another person or other persons when, for the purpose of trade or business, he engages in or refrains from engaging in a fishing activity of a class which constitutes the fishery.

6. (1) The classes of fishing activities specified in subregulations (2) and (3) of this regulation are declared by this regulation to constitute a fishery under Division 1 of Part IV of the Act.

(2) The taking of tuna and salmon in coastal waters and any act preparatory to, or involved in, the taking of such fish.

THE SCHEDULE

1. Full name, date of birth, address (for service, residential and postal) and telephone number of the applicant.

2. Details of any boat to be used by the applicant to take fish including, in respect of each boat:

(a) length (where surveyed—surveyed length);

(b) number of current survey certificate;

(c) year of construction;

(d) material of which hull is made;

(e) main colour;

(f) name;

(g) registration number.

3. Details of the number of persons who are to assist the applicant to take fish from the boat or otherwise.

4. Details of the person who is to be the registered master of the boat.

5. Details of any device to be used to take fish.

6. Statements by the applicant as to whether or not he:

(a) is a former licence holder;

(b) is the holder of a licence in respect of any other fishery;

(c) has an interest in a fishery licence of which he is not the holder;

(d) is a party to or in any way involved in or connected with an agreement, arrangement or understanding of a kind referred to in these regulations;

(e) is the holder of a Commonwealth quota.

7. Details in respect of any of the statements made by the applicant in respect of the matters referred to in paragraph 6.

And the Honourable the Minister of Fisheries is to give the necessary directions accordingly.

D. J. ABBOTT, Clerk of the Council

D.F., 1/4408